

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTHCAROLINA
DOCKET NO. 2014-372-T

IN RE:)	
Application of Rasier, LLC for a)	
Class C – Transportation Network Company)	MOTION TO STRIKE
Certificate of Public Convenience and)	(CHECKER YELLOW CAB CO. INC.)
Necessity for Operation of Motor Vehicle)	
Carrier)	

Pursuant to 26 S.C. Code Ann. Regs. 103-829 and applicable South Carolina law, Checker Yellow Cab Company, Inc. ("CYC") hereby objects to and moves to strike portions of the pre-filed rebuttal and conditional rebuttal direct testimony of William M. Guernier on behalf of Rasier LLC, South Carolina ("Applicant"). In support thereof, CYC would show as follows:

1. On January 5, 2015, Applicant submitted pre-filed rebuttal and conditional rebuttal direct testimony of William M. Guernier. Therein, Rasier purports to offer testimony opining on a variety of subjects including corporate law, statutory interpretation, employment law, and insurance for which he is woefully unqualified. Mr. Guernier, unlike Mr. Bacot, has virtually no experience in the transportation business and was submitted as a lay witness for Rasier despite the fact he actually works for Uber. He goes on to speculate regarding Intervenor's legal status, relationship with its drivers, and whether or not Intervenor should be certificated differently. Mr. Guernier was not qualified or proffered as an expert in

any field and as such is limited to his lay testimony regarding Rasier's application and Rasier's methods of operations. Rule 702, SCRE (stating that witness must be qualified as an expert based on his "knowledge , skill, experience, training, or education") For the following reasons, Checker Yellow Cab moves to strike the following testimony for reasons listed.

Rebuttal Testimony (Guernier)

- a. Page 2 line 18 thru Page 3 line 7. After stating "Although I'm not an attorney", Mr. Guernier goes on to give an opinion as to the interpretation of what authority the statute gives the PSC. He then goes on to give his version of the legal interpretation of the PSC regulations. Because he was not qualified and not offered as an expert in anything, he is not qualified to opine as to legal conclusions.
- b. Page 4 line1 starting with "For these reasons" ending at the end of Page 4 line 2. Here, Mr. Guernier, after reciting some operational characteristics of Rasier arrives at the legal conclusion that neither Uber nor Rasier are transportation service providers or considered taxi companies. Because he was not qualified and offered as an expert in anything, he is not qualified to opine as to legal conclusions.
- c. Page 4 Line 10 starting with "This is nothing unique or novel" thru Page 4 Line 16. Mr. Guernier testifies to what other companies do as if it were fact without any foundation as to how he has any idea what other companies do. This testimony is speculation at best and beyond the limits of a lay witness and for any witness for

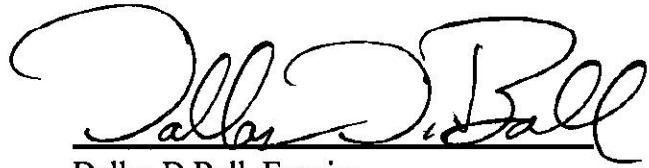
that matter. Then he goes on to offer an opinion of what “control” is. Control is a term of art used in employment context. Mr. Guernier, having no qualifications other than as a lay witness for Uber and Rasier is not qualified to render an opinion as to what is or is not control.

- d. Page 5 Lines 1-2 Calls for a legal conclusion
- e. Page 5 Lines 5-7 Calls for a legal conclusion
- f. Page 8 Lines 10-18 Gives an opinion on the insurance coverage for Rasier he is unqualified to give.

Conditional Rebuttal Testimony (Guernier)

- a. Page 2 Lines 9-11 Calls for expertise on corporate law which witness has no qualifications to offer opinion.
- b. Page 2 Lines 17-18 Calls for legal conclusion
- c. Page 3 line 1 thru Page 4 line 17. Witness gives legal conclusions, speculates about Checker Yellow’s corporate structure and then even assumes facts then gives opinions based on those assumptions. This would be permissible for an expert but not a lay witness. Mr. Guernier has not been offered as an expert.

WHEREFORE, having fully set forth its motion, Checker Yellow Cab Co. Inc. requests that the Commission issue an order striking the identified portions of the testimony and granting it such other and further relief as is just and proper.

A handwritten signature in black ink, reading "Dallas D. Ball". The signature is fluid and cursive, with the first name "Dallas" and last name "Ball" clearly distinguishable. A horizontal line is drawn beneath the signature.

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January 12, 2014 Columbia,
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